

**IN THE NATIONAL COMPANY LAW TRIBUNAL,  
DIVISION BENCH – II, CHENNAI**

**IBA/433/2020**

*(filed under Section 7 of the Insolvency and Bankruptcy Code, 2016 r/w  
Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating  
Authority) Rules, 2016)*

*In the matter of **M/s. PRESSCOM PRODUCT PRIVATE LIMITED***

**M/s. INTEC CAPITAL LIMITED**

Rep by its Deputy Manager – Legal,  
No. 708, Manjusha Building,  
57, Nehru Place, New Delhi South,  
Delhi – 110 019.

*... Financial Creditor*

-Vs-

**M/s. PRESSCOM PRODUCT PRIVATE LIMITED**

[CIN: U29199TZ1995PTC008665]  
Plot No 69, SIPCOT Industrial Complex,  
Phase – II, Hosur,  
Tamil Nadu – 635 109.

*...Corporate Debtor*

*Order Pronounced on 04<sup>th</sup> November, 2022*

CORAM:

**DR. DEEPTI MUKESH, MEMBER (JUDICIAL)**

**SAMEER KAKAR, MEMBER (TECHNICAL)**

*For Financial Creditor: B. Prashanth Nadaraj, Advocate  
Dhruv Parwal, Advocate*

*For Corporate Debtor: M.D. Thirunavukkarasur, Advocate  
R. Pavithra, Advocate*

**ORDER**

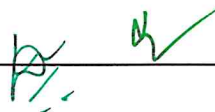
**Per: SAMEER KAKAR, MEMBER (TECHNICAL)**

This Application has been filed by **M/s. INTEC CAPITAL LIMITED** (hereinafter referred to as 'Financial Creditor') on 17.02.2020 under Section 7 of the Insolvency and Bankruptcy

Code, 2016 (I&B Code) r/w Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, against **M/S. PRESSCOM PRODUCT PRIVATE LIMITED**(hereinafter referred to as 'Corporate Debtor'). The prayer made is to admit the Application, to initiate the Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor, declare moratorium and appoint Interim Resolution Professional (IRP).

2. From Part-I of the Application, it is seen that the Applicant is the Financial Creditor The registered office address as per the Application is stated to be situated at No. 708, Manjusha Building, 57, Nehru Place, New Delhi South, Delhi – 110 019. Further, Part-I lays down the one Mr. Dhruv Khanna, who is the Deputy Manager – Legal is the Authorised Signatory of the Applicant Financial Creditor. Verifying affidavit dated 27.12.2019 was filed for the same.

3. Part - II of the Application lays down the details of the Corporate Debtor. It can be seen that the Corporate Debtor is a Private limited company incorporated under the Companies Act, 1956 on 02.12.1998 with CIN: U29199TZ1995PTC008665. The registered office of the Corporate Debtor as per the MCA master data is situated at Plot No. 69, B SIPCOT Industrial Complex Phase – II, Hosur, Tamil Nadu – 635 109. The Authorised Share Capital of



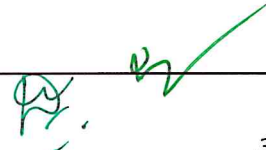
the Corporate Debtor and Paid-up Share Capital is stated to be Rs.2,75,00,000/- and Rs.2,65,52,500/- respectively.

4. From Part-III of the Application, it is seen that the Financial Creditor has proposed the name of the Interim Resolution Professional (IRP) viz., Mr.Sanjay Mehra, Reg. No. IBBI/IPA-001/IP-P01818/2019-20/12784.

5. From Part-IV of the Application, it submitted that the Financial Creditor has advanced to the Corporate Debtor a sum of Rs.1,57,50,000/- (Rupees One Crore Fifty-Seven Lakh Fifty Thousand only) and has claimed a total debt amount of Rs.2,92,40,341/- (Rupees Two Crore Ninety-TwoLakh Forty Thousand Three Hundred and Forty-Oneonly)which is due and payable by the Corporate Debtor as on the date of filing the present.The date of default is averred in Part-IV of the Application as 01.03.2017.

6. Part - V of the application describes the particulars of Financial Debt and the documents filed along the present Application for substantiating default.

7. As per the documents on record, it can be seen that the Financial Creditor has sanctioned credit facility to an extent of Rs.1,57,50,000/- to the Corporate Debtor and the 'Loan



Agreement', 'Arbitration Agreement' and 'Agreement Creating Charge' dated 30.06.2015 had been entered and duly executed by the parties. Copies of the Agreement(s) are placed on record as Annexure I (5) from page nos. 22 – 65. The Financial Creditor by referring to the sanction letter, drew attention to the terms of disbursement and submitted that the disbursement of the credit facility was to be made directly to the Corporate Debtor's supplier on request of the Corporate Debtor. It is further submitted that the disbursements were made in parts by way of separate cheques. The said facilities were secured by way of 'Exclusive Hypothecation Lien Mark' on quotations and invoices of the Corporate Debtor and the said charge is stated to have been duly registered with the ROC. Copy of Charges Registered is placed on record as Annexure I(7) at page no. 90.

8. Initially, the Financial Creditor sought to invoke arbitration upon default by the Corporate Debtor and had issued a notice dated 01.03.2017 to the Corporate Debtor in terms of the Arbitration Agreement. The Financial Creditor secured an Arbitral Award dated 22.09.2017 in its favour. Copy of the said award is placed at page 91-110 of the Application. It is submitted that since the Corporate Debtor failed to abide by the Arbitral Award, the Financial Creditor had presented the 'Post Dated Cheques' which



were obtained in terms of the Clause 2.10.2 'Loan Agreement' towards the dues payable. The same is stated as dishonoured.

9. The present Application has been filed on 27.02.2020 and in response to the same, an Affidavit dated 07.03.2021 was filed on behalf of the Corporate Debtor wherein, the debt and default claimed by the Financial Creditor is not disputed and no objections on merit is raised. Alternatively, the Corporate Debtor has chosen to make a defence that the Financial Creditor had disbursed the loan amount to the supplier of the Corporate Debtor without any confirmation from the Corporate Debtor.

10. In light of the limited objection raised, the counsel for the Financial Creditor draws our attention to clause 2.2.4 of the Loan Agreement which reads as under:

*"In the event the payments are directly made by INTEC to the Asset Provider and subsequently if the Asset(s) is not delivered within a period of 90 (ninety) days, then unless permitted by INTEC in writing, the borrower shall be liable to repay the amount back to INTEC with non-compliance penal charges at the rate as mentioned in Schedule II hereto over and above the Applicable Interest Rate to INTEC on such payments made, immediately on the expiry of 90 (ninety) days from the date of disbursement. "*

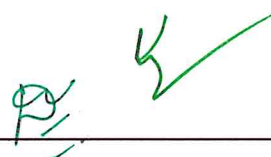


Reliance to the above clause was made to substantiate that unless permitted by the Financial Creditor in writing, the Corporate Debtor alone shall be liable to repay the debt.

11. We have perused the Application and the supporting documents filed by the Financial Creditor. Having considered the representation by the parties, we are satisfied that this is a case of an admitted debt and considering that the Application is filed within the period of limitation, the Financial Creditor has made out a *prima facie* case proving debt and default warranting intervention of this Tribunal.

12. As a consequence of above discussion in light of facts of the present case, the Application is admitted in terms of Section 7 of the Code, moratorium as envisaged under provisions of Section 14(1) and as extracted hereunder shall follow in relation to the Corporate Debtor;

- a. The institution of suits or continuation of pending suits or proceedings against the respondent including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;
- b. Transferring, encumbering, alienating or disposing of by the respondent any of its assets or any legal right or beneficial interest therein;



- c. Any action to foreclose, recover or enforce any security interest created by the respondent in respect of its property including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;
- d. The recovery of any property by an owner or lessor where such property is occupied by or in the possession of the respondent.

*Explanation.*-For the purposes of this sub-section, it is hereby clarified that notwithstanding anything contained in any other law for the time being in force, a licence, permit, registration, quota, concession, clearance or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license or a similar grant or right during moratorium period;

13. However during the pendency of moratorium period in terms of Section 14(2) and 14(3) as extracted hereunder;

- (2) The supply of essential goods or services to the Corporate Debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period.



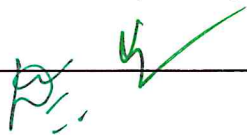
(2A) Where the interim resolution professional or resolution professional, as the case may be, considers the supply of goods or services critical to protect and preserve the value of the Corporate Debtor and manage the operations of such Corporate Debtor as a going concern, then the supply of such goods or services shall not be terminated, suspended or interrupted during the period of moratorium, except where such Corporate Debtor has not paid dues arising from such supply during the moratorium period or in such circumstances as may be specified.

- (3) The provisions of sub-section (1) shall not apply to
- (a) such transactions, agreements or other arrangement as may be notified by the Central Government in consultation with any financial sector regulator or any other authority;
  - (b) a surety in a contract of guarantee to a corporate debtor.

14. The duration of period of moratorium shall be as provided in Section 14(4) of the Code which is reproduced below for ready reference;

- (4) The order of moratorium shall have effect from the date of such order till the completion of the Corporate Insolvency Resolution Process:

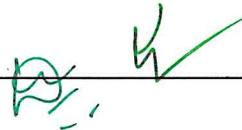
Provided that where at any time during the Corporate Insolvency Resolution Process period, if the



Adjudicating Authority approves the Resolution Plan under sub-Section (1) of Section 31 or passes an order for liquidation of Corporate Debtor under Section 33, the moratorium shall cease to have effect from the date of such approval or Liquidation Order, as the case may be.

15. The Financial Creditor has proposed the name of **Mr. Sanjay Mehra (Email ID:sanjay.mehra64@gmail.com), Reg. No. [IBBI/IPA-001/IP-P01818/2019-2020/12784]** as the Interim Resolution Professional (IRP) who, has also filed their consent in Form – 2 and also upon verification from the IBBI website, it is seen that the said insolvency professional hold valid Authorization for Assignment till 21.04.2023.

16. **Mr. Sanjay Mehra** is appointed as the IRP who is directed to take charge of the Corporate Debtor's management immediately. The IRP is also directed to cause public announcement as prescribed under Section 15 of the IBC, 2016 within three days from the date the copy of this Order is received, and call for submissions of claim by the creditors in the manner as prescribed under Regulation 6 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. The Applicant / Financial Creditor is directed to remit a sum of Rs.2,00,000/- to and in favour of the IRP for meeting out the initial expenses in relation to



the CIR Process of the Corporate Debtor. The said amount shall be adjusted and ratified on account of the Financial Creditor.

17. The IRP appointed shall take in this regard such other and further steps as are required under the Statute, more specifically in terms of Section 15, 17, 18 of the IBC, 2016. The powers of the Board of Directors of the Corporate Debtor shall stand superseded as a consequence of the initiation of the CIRP in relation to the Corporate Debtor in terms of the provisions of IBC, 2016.

18. The IRP shall comply with the provisions of Sections 13 (2), 15, 17 & 18 of the Code. The Directors of the Corporate Debtor, its Promoters or any person associated with the management of the Corporate Debtor are directed to extend all assistance and cooperation to the IRP as stipulated under Section 19 of IBC, 2016 for the purpose of discharging his functions.

19. Based on the above terms, the Application stands **admitted** in terms of Section 7(5) of IBC, 2016 and the moratorium shall come in to effect as of this date. A copy of the Order shall be communicated to the Financial Creditor as well as to the Corporate Debtor above named by the Registry. In addition, a copy of the Order shall also be forwarded to IBBI for its records. Further, the Interim Resolution Professional above named who is figuring in the



list of Resolution Professionals forwarded by IBBI be also furnished with copy of this Order forthwith by the Registry, who will also communicate the initiation of the CIRP in relation to the Corporate Debtor to the Registrar of Companies concerned.

20. The IRP is directed to file the 1<sup>st</sup> Progress Report before this Tribunal on or before the 45<sup>th</sup> day of initiation of CIRP by this Adjudicating Authority by way of an interlocutory application.



-Sd-

**SAMEER KAKAR**  
MEMBER (TECHNICAL)



-Sd-

**DR. DEEPTI MUKESH**  
MEMBER (JUDICIAL)

*V.Shreekumar*